



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

DAEN-REM

16 April 1987

SUBJECT: Private Mineral Leases on DA Lands

SEE DISTRIBUTION

1. Reference:

- a. 33 U.S.C. 701c-3.
- b. ER 405-1-12, chapter 8, paragraph 8-24.
- c. Letter, DAEN-REM-C, 19 Mar 87, subject as above.

2. On 9 April 1987, Representative Nick Joe Rahall II, Chairman of the Subcommittee on Mining and Natural Resources, Committee on Interior and Insular Affairs, House of Representatives, held a hearing on the Corps mineral leasing policy, specifically in the Ohio River Division. During the preparation for this hearing, we discovered inconsistencies in the interpretation and application of the laws with respect to distribution of monies from private mineral leases and in the transfer of administration of these leases to the Bureau of Land Management (BLM).

3. Private mineral leases for the purposes of this guidance, as well as the guidance contained in reference c., are defined as leases or other mineral rights in existence at the time land is acquired and which are left outstanding to be either acquired later or which will be extinguished by expiration.

4. Our research has not revealed any statute which requires that BLM administer privately-owned mineral leases on lands acquired for Corps water resource projects. Nor could we find any statute which prohibits the Corps from administering such leases. Prior to April 1985, the District Engineer could assume responsibility for administering these leases or transfer them to BLM. However, in the early 1980's, a decision was made that the mineral experts within the Department of Interior should manage these private leases. Therefore, reference b. directs all Corps offices to transfer the leases to BLM for administration. This was done as a matter of policy not of law and is in accordance with DOD policy on the issue.

5. All private mineral lease interests should be transferred to BLM for administration within 90 days after acquisition by the Government. If the transfer cannot be accomplished within that time frame, notification and the reasons for the delay as well as the scheduled date for such turnover must be forwarded to this office.

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6. For those leases acquired on military lands, the Department of Interior will ascertain the appropriate distribution of any funds received therefrom.

7. For leases acquired on lands needed for water resource projects, reference a. is the applicable statute. Distribution of any rents, royalties, or other monies received by the United States as a result of its succeeding to the rights of former landowners will be considered to be included as "money received on account of leasing lands" and will be subject to distribution in accordance with the formula contained in reference a.; i.e., 75 percent will be made to the state for the benefit of county schools and roads or other legal expenses and 25 percent returned to the U.S. Treasury.

8. This issue is receiving close Congressional scrutiny. Reports requested in reference c. will be used to provide the Subcommittee with additional information as to the extent of the problems, if any.

FOR THE COMMANDER:



DAVID L. COHEN

Chief, Management and Disposal Division
Directorate of Real Estate

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